

Appl. No. : 10/762,716
 Filed : January 22, 2004

REMARKS

In response to the Office Action mailed on December 14, 2004, Applicant submits the foregoing amendments and the following comments.

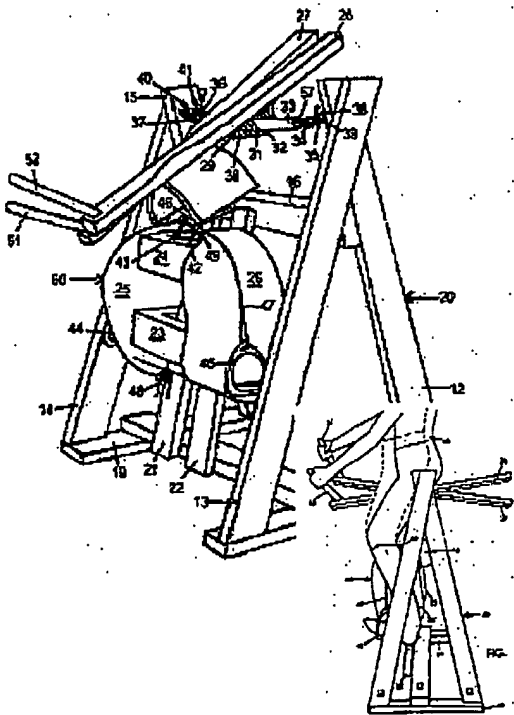
Acknowledgement of Allowed Claims

Applicant gratefully acknowledges the indication that Claims 1-8 are allowable.

Claims 9-13 Are Not Anticipated By Cannavino

Claims 9-13 have been rejected as anticipated by Cannavino (United States Patent No. 6,264,569). Applicant respectfully disagrees with the Examiner's application of Cannavino as a reference and with the Examiner's construction of Cannavino.

Claim 9 recites: "a skateboard training device comprising a frame, at least three resilient cables being secured to said frame, a spring board deck being secured to said at least three resilient cables, and a foot deck rotatably attached to said spring board deck." As the Examiner is aware, each of the words of a claim is limiting on the claim and, while claims are construed broadly during examination, the instruction to Examiners is to give claims the broadest reasonable interpretation.



Cannavino disclosed a horseback simulator. The horseback simulator was design to allow riders a realistic device for practicing horsemanship maneuvers, which are performed in a seated position. The simulator had a frame 20 that was comprised of support posts 12, 13, 14 and 15. At the top of each A-frame, a pair of metal springs 34, 35, 36 and 37 extended inwardly toward the center of the frame 20. A cylindrical support dowel 33 was connected between the two groups of springs. Straps 29, 30, 31 and 32 (shown in Figure 3) connected a pair of seat supports 27, 28 to the support dowel 33. As shown to the right, a rider sat on the seat supports 27, 28 during use.

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As noted above, Claim 9 recites, among other limitations, a skateboard training device and a foot deck that is rotatably attached to a spring board deck. While Applicant submits that it is clear the a skateboard training device was not disclosed by Cannavino, Applicant also submits that Cannavino's horseback training device is not analogous art.

While the question of whether a reference is analogous art is not relevant to whether that reference anticipates, the reference is only anticipatory if it explicitly or inherently discloses every limitation recited in the claims. In this case, because the device of Cannavino is designed for riding, it does not contain any disclosure whatsoever of a "foot deck," as that term is understood by those of ordinary skill in the art.

The term "deck" has a meaning to those of ordinary skill in the art and that meaning is clarified by the modifier "foot". As used by those of ordinary skill in the art, a "foot deck" is a substantially flat member that one stands upon when riding a skateboard. The element identified in Cannavino by the Examiner is not a member one would stand upon without great risk of bodily harm. The "seat supports" 27, 28 of Cannavino are designed to be sat upon during use and Cannavino does not disclose that one would ever put a foot on the "seat supports." Thus, among other limitations, Cannavino does not disclose a "foot deck." For at least these reasons, Applicant submits that Claim 9 is not anticipated by Cannavino and reconsideration is respectfully requested.

The Examiner also rejected Claims 10-13 as anticipated by Cannavino. Claims 10-13 depend from Claim 9 and distinguish over Cannavino in at least the same way. Moreover, at least some of the claims recite limitations that were not disclosed by Cannavino. For instance, Claim 10 recites that the frame is collapsible for storage. While Applicant carefully reviewed Cannavino, Applicant could not identify where Cannavino disclosed that the structure was collapsible for storage. In the event the Examiner maintains this rejection, Applicant requests assistance from the Examiner in locating this disclosure. Claim 13 recites a handlebar attached to the frame. While the Examiner has identified element 16, it is clear from Figure 7 (reproduced above) that the only disclosed handlebars are attached to the "seat supports" and that a user would be highly unlikely to use the crossing member 16 as a handlebar because it is located about one to two feet directly beneath the bottom of the user when the user is using the device. For at least these reasons, Claim 10-13 are not anticipated by Cannavino.

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Claims 14 and 15 Are Patentable Over the Combination of Cannavino and Heubl

Claims 14 and 15 have been rejected as unpatentable over Cannavino in view of Heubl. Applicant disagrees that these claims would be unpatentable over the applied combination and disagrees that the combination is proper.

As stated above, Cannavino is completely nonanalogous art. In this respect, Heubl also is nonanalogous art. Heubl taught a baby rocking device. Neither of these devices is in the field of Applicant's endeavor. In addition, neither of these references was particularly pertinent to the problem encountered by the Applicant. As discussed above, the device of Cannavino was directed to the problem of simulating the distinct movements of a horse for a seated rider. The device of Heubl was designed for a baby to assume a prone position and the device was not designed for standing operation nor designed to simulate skateboard movements. Thus, an inventor in the skateboard training device art would not look to the horse simulator or baby rocking arts for suggestions in creating a device that simulates skateboard motions. For at least this reason, neither Cannavino nor Heubl is an appropriate prior art reference.

The Examiner has relied upon Heubl for a teaching of an adjustable relative elevation between a support surface and the spring board deck. Heubl teaches an arrangement for changing the height *h* between the support 2 and the floor. Nevertheless, to combine Heubl with Cannavino would result in a construction that would fundamentally alter the movement generated by the basic structure of Cannavino. Cannavino explained at length in the background of the invention that the motion generated by the horseback training device was critical to the proper operation and fundamental design of the device. Thus, making the applied combination would result in Cannavino failing to operate for its intended purpose. For at least this reason, the combination is improper and Claims 14 and 15 are properly patentable without further argument.

Nevertheless, Applicant also points out that Heubl fails to supply the limitations not disclosed by Cannavino (e.g., the foot deck). Because neither reference disclosed, taught or suggested a foot deck, among other limitations, the combination could not have taught or suggested every limitation of Claims 14 and 15 (which include the limitations of Claim 9). Thus, even if the combination were proper, Claims 14 and 15 would not be rendered obvious by the combination. Reconsideration and allowance of Claims 14 and 15 are respectfully requested.

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CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, issuance of a Notice of Allowance is most earnestly solicited.

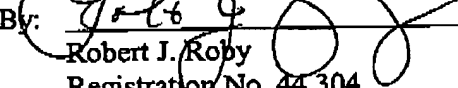
The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney, Robert J. Roby at (949) 721-6359 (direct line) in order to resolve such issues promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 3.11.2005

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